
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

IVAN TORRES,

Plaintiff,

v.

CAPITAL ONE BANK (USA), N.A.,
JOHNSON MARK LLC, TRANS UNION,
LLC, and SEAN UMIPIG,

Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Case No. 2:22-cv-00316-JNP-DBP

District Judge Jill N. Parrish

Plaintiff Ivan Torres (“Plaintiff”), proceeding pro se, sued Capital One Bank (USA), Johnson Mark LLC, Trans Union, LLC, and Sean Umipig (collectively, “Defendants”) for violations of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§ 1681, 1692. (ECF No. 2.) On July 22, 2022, the court granted a motion to withdraw as counsel filed by Plaintiff’s counsel. (ECF No. 29.) The court ordered Plaintiff or his new counsel to file a Notice of Appearance within twenty-one days. (*Id.*)

On September 22, 2022, Defendants Sean Umipig and Johnson Mark LLC moved for sanctions and to dismiss this case for failure to comply with the order dated July 22, 2022. (ECF No. 33.) On November 21, 2022, the court issued an Order to Show Cause ordering Plaintiff to “inform the Court of the status of the case and intentions to proceed.” (ECF No. 34.) On December 15, 2022, Magistrate Judge Dustin B. Pead issued a Report and Recommendation that the action be dismissed without prejudice for Plaintiff’s failure to prosecute. (ECF No. 35.) Magistrate Judge Pead notified Plaintiff that a failure to file a timely objection to the Report and Recommendation could waive any objections to it. Plaintiff did not file an objection within the allotted time.

Because Plaintiff did not object to the Report and Recommendation, he waived any argument that it was in error. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996). The court will decline to apply the waiver rule only if “the interests of justice so dictate.” *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991). The court has reviewed the Report and Recommendation and concludes it is not clearly erroneous. Thus, the court finds that the interests of justice do not warrant deviation from the waiver rule.

Accordingly, the court ORDERS as follows:

1. The Report and Recommendation for Dismissal (ECF No. 35) is ADOPTED IN FULL.
2. This action is DISMISSED WITHOUT PREJUDICE.

Signed March 1, 2023

BY THE COURT



Jill N. Parrish
United States District Court Judge